

Marlene H. Dortch
Secretary
Federal Communications Commission
TW-A325
445 Twelfth St., SW
Washington, DC 20554



September 19, 2005

Re: *Notice of Ex Parte Presentation in ET Docket No. 04-151*

Dear Ms. Dortch:

On September 15, 2005, Harold Feld of Media Access Project met with the following OET and WTB staff: Ron Ropusi (OET), Jamison Prime (OET), Alan Scrimme (OET), Geraldine Matise (OET), Gary Thayer (OET), Julie Knapp (OET), Nese Guendelsberger (WTB), Eli Johnson (WTB), and Marty Lieberman (WTB) to discuss the Petitions for Reconsideration in the above captioned matter.

Mr. Feld began with a brief description of operations of WISPA, Part-15.org, and CUWN in Katrina relief and the role played by WISPs and community wireless networks (CWNs) volunteers in recreating critical communications infrastructure. Mr. Feld observed that within a year, assuming the 3650-3700 MHz rules remain in place, new equipment using this spectrum would allow WISPs and CWNs to provide even more extensive services more quickly, particularly with 25-watt transmitters for backhaul and wide-area networks.

Mr. Feld observed that numerous parties had filed in support of the current rules, including equipment manufacturers such as Cisco and Tropos as well as open source developers like CUWN. Accordingly, arguments from Motorola, Alvarion and others that "no one" would develop equipment in the space should be rejected. In response to a staff question as to why some companies state they need further more specific Commission rules to govern the technology or sharing mechanism, Mr. Feld responded that it is not uncommon that some companies will prefer such detailed rules while others do not. In the technology industry, it has been fairly common for large companies to wait while entrepreneurial companies develop new equipment and industry standards. After the market has settled, the larger companies buy the successful entrepreneurs. Motorola's purchase of Canopy is a classic example of this pattern.

Mr. Feld reiterated the contents of the CUWN Opposition to the the Petitions for Reconsideration, stressing again the need to resolve the matter quickly. The longer a cloud hangs over the rules, the slower the investment in new equipment will be. In response to staff questions on expected deployment, Mr. Feld agreed that rural backhaul might prove the first widespread use, but that use in urban areas would not lag behind. CWNs are very interested in deploying 3650-3700 MHz devices in urban

settings, and have a history of coordination to guide them in implementation of the new rules. Mr. Feld also observed that the rules permit negotiations with individual licensees within exclusion zones, providing the prospect that urban areas excluded under the rules may well see deployment once equipment is available.

By contrast, a licensed regime would engender significant delay while service rules are developed, and would foreclose use of the band by anyone unable to pay the upfront fee for licenses. Significant licensed spectrum already exists for deployment. By contrast, the rules developed for 3650-3700 MHz represent a bold, deregulatory step by the Commission and should have time to prove themselves in market conditions.

In accordance with Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206, this letter is being filed with your office. If you have questions, please do not hesitate to contact me.

Respectfully Submitted,

Harold Feld
Senior Vice President

CC: Ron Ropusi (OET), Jamison Prime (OET), Alan Scrim (OET), Geraldine Matise (OET), Gary Thayer (OET), Julie Knapp (OET), Nese Guendelsberger (WTB), Eli Johnson (WTB), and Marty Lieberman (WTB)